

STATE OF MICHIGAN
COURT OF APPEALS

LINDA BLACKBURN,

Plaintiff-Appellee,

v

TREES, INC., and JIM W. ALBRIGHT,

Defendants-Appellants.

UNPUBLISHED

April 26, 2005

No. 251632

Genesee Circuit Court

LC No. 03-076400-CH

Before: Kelly, P.J., and Sawyer and Wilder, JJ.

MEMORANDUM.

Defendants appeal as of right from the trial court's order granting plaintiff's motion for summary disposition in this action to quiet title. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In 1996 plaintiff obtained tax deeds to thirteen parcels of property. In May 2003 plaintiff filed the instant action seeking to quiet title to the properties in herself and to enjoin defendants from asserting any interest in the properties. Plaintiff asserted that defendants might claim an interest in the properties via a 1990 quit claim deed from Jill Ann Harter to James Monahan. Monahan's chain of title culminated in Trees, Inc., which mortgaged the properties to Albright. Plaintiff moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that because defendants' purported interest in the properties originated in a deed found to have been invalid,¹ defendants had no actual interest in the properties. The trial court granted the motion, rejecting defendants' argument that the quit claim deed from Harter to Tremaine was invalid.

We review a trial court's decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

¹ In *Walrath v Levine*, Genesee Circuit Court Docket No. 00-69218-CH, a case in which defendants were named parties, the trial court held that the 1990 quit claim deed was invalid and transferred no interest from Harter to Monahan. The trial court based its decision on the fact that in 1985 Harter deeded her interest in the same property to Duncan Tremaine. Tremaine's chain of title culminated in Douglas Mullen, who was among the owners of record at the time plaintiff obtained the tax deeds.

An action to quiet title is equitable in nature. We review the trial court's findings of fact for clear error, and its conclusions of law de novo. *Killips v Mannisto*, 244 Mich App 256, 258; 624 NW2d 224 (2001).

A party opposing a motion for summary disposition brought pursuant to MCR 2.116(C)(10) may not rest on mere allegations or denials in the pleadings, but must establish by admissible documentary evidence the existence of a disputed issue of fact. *Karbel v Comerica Bank*, 247 Mich App 90, 97; 635 NW2d 69 (2001); MCR 2.116(G)(4) and (6). Defendants presented no documentary evidence to support their allegation that the 1985 quit claim deed from Harter to Tremaine was invalid. Defendants state that Harter filed "notice" that the deed recorded by Tremaine was not valid; however, defendants cite no authority for their apparent proposition that such a notice would require a conclusion that the deed was in fact invalid. Defendants failed to oppose plaintiff's motion for summary disposition with admissible evidence that created a genuine issue of fact as to the validity of plaintiff's deeds. The trial court properly granted summary disposition in favor of plaintiff. *Karbel, supra*; MCR 2.116(C)(4) and (6).

Affirmed.

/s/ Kirsten Frank Kelly
/s/ David H. Sawyer
/s/ Kurtis T. Wilder